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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|---|-------------|-------------------------|-------------------------------|------------------|
| 10/734,803  | 12/12/2003  | Joseph Carmine Centanni | Centanni 2-32-9-22-5-7<br>(L) | 3519             |
| 46363   | 7590        | 06/18/2008              |                               |                  |
| PATTERSON & SHERIDAN, LLP/<br>LUCENT TECHNOLOGIES, INC<br>595 SHREWSBURY AVENUE<br>SHREWSBURY, NJ 07702 |             |                         |                               |                  |
| EXAMINER  |             |                         |                               |                  |
| CURS, NATHAN M  |             |                         |                               |                  |
| ART UNIT  |             | PAPER NUMBER            |                               |                  |
| 2613  |             |                         |                               |                  |
| MAIL DATE   |             | DELIVERY MODE           |                               |                  |
| 06/18/2008  |             | PAPER                   |                               |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

|                                      |  |
|--------------------------------------|--|
| <b>Application No.</b><br>10/734,803 | <b>Applicant(s)</b><br>CENTANNI ET AL. |
| <b>Examiner</b><br>NATHAN M. CURS    | <b>Art Unit</b><br>2613                |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 24.  
Claim(s) objected to: 3,5-7,11-13 and 21.  
Claim(s) rejected: 1,2,4,8-10 and 14-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Jason Chan/  
Supervisory Patent Examiner, Art Unit 2613

Continuation of 11, does NOT place the application in condition for allowance because: In the Remarks page 8 lines 1-25, regarding claim 1, the Applicant argues that Takeda's pump signal selecting is not modulating of pump sources. However, the Applicant doesn't claim modulating of pump sources, only of pump signals; the claim language is "at least one of said at least two optical pump signals is controllably modulated". Takeda's selecting between pump signals reads on modulating each of those pump signals because they are each being controllably passed or blocked by the selector switch; each pump signal is thus being amplitude modulated between full and zero amplitude. The cited details from the specification (e.g. maintaining C-band level constant while modulating L-band pump, etc.) are not read into the claims. Nor does this portion of the specification clearly redefine and set forth "modulated" to be Applicant's uncommonly narrow definition as opposed to its ordinary meaning, as would be required for the Applicant to act as lexicographer for "modulated". The Applicant should also note before any further amendments that Takeda also discloses an alternative scenario which would read on modulating the pump sources themselves; namely, a multiplexer in place of the switch, where the pump sources themselves are individually turned on or off (col. 5 lines 26-29). In page 8 line 26 to page 9 line 4, the Applicant argues that because Takeda's two [pump signals] are not mixed together, Takeda teaches away from the claim language "at least one of said at least two optical pump signals is controllably modulated such that a logic sequence of said input data signal is controllably switched". However, this argument ignores the contribution of Bjarklev in the combination; Takeda's alternating pump signals does not teach away from adding a third and different pump signal as in the combination.